

Decision 03-01-065 January 30, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Orange County Transportation Authority for an Order authorizing widening of two existing crossings at separated grades between Garden Grove Freeway and 1) the track of The Union Pacific Railroad Company, sometimes referred to as the "Hoover Street Overhead" (PUC No. 1-BAA-516.74A) (DOT No. 748029S) the track of the Southern California Regional Rail Authority (SCRRA), sometimes referred to as the South Orange Overhead, P.U.C. 101 OR 173.40A (DOT 026696U).

Application 02-08-023
(Filed August 19, 2002)

O P I N I O N

Summary

The Orange County Transportation Authority (OCTA) requests authority to widen State Route 22 (SR-22), also known as the Garden Grove Freeway, over the grade-separated tracks of Union Pacific Railroad Company's (UPRR) Stanton Branch line in City of Westminster and OCTA's Orange Subdivision line in City of Orange, both in County of Orange.

Discussion

OCTA was formed in 1991 through a consolidation of seven separate transportation agencies to develop and implement unified transportation programs and services for Orange County. It is governed by an 11-member Board of Directors, which consists of four county supervisors, six city council representatives, and one public member. A governor-appointed representative

of the California Department of Transportation (Caltrans) also sits on the board in a non-voting capacity. The Southern California Regional Rail Authority (SCRRA) is a five-county joint powers authority created by Senate Bill 1402 of 1990, under Public Utilities Code Section 130255 pursuant to Government Code Section 6501 et al., to build and operate the Metrolink commuter rail system. OCTA is one of the five SCRRA member agencies.

OCTA has entered into a cooperative agreement with Caltrans to increase the number of traffic lanes on SR-22 by widening it. Included in this project is a portion of SR-22 that crosses over railroad tracks on a grade-separated bridge at two locations. The first location is over UPRR's tracks, commonly known as Hoover Street Overhead, CPUC Crossing No. BAA-516.74-A, in City of Westminster, which was authorized by Decision (D.) 64747 issued on January 8, 1963, and the construction was completed in 1964. UPRR operates freight trains over these tracks. The second location is over OCTA's tracks, commonly known as South Orange Overhead, CPUC Crossing No. 101OR-173.40-A, in City of Orange, which was authorized by D.69596 issued on August 24, 1965, and the construction was completed in 1967. These tracks are maintained by SCRRA. The Burlington Northern Santa Fe Railway Company (BNSF) operates freight trains and the National Railroad Passenger Corporation (Amtrak) operates both its fleet of passenger trains and also SCRRA's Metrolink commuter trains over these tracks.

OCTA also requests a temporary exemption from the vertical clearance requirements of Commission General Order (GO) 26-D. Section 2.1 of GO 26-D states "The minimum overhead clearance above railroad and street railroad tracks, which are used or proposed to be used for transporting freight cars, shall be twenty-two (22) feet six (6) inches. " OCTA requests a temporary reduction of

clearance requirements during construction from the 22-feet 6-inches required by GO 26-D to 21-feet 0-inches. UPRR, BNSF, and SCRRA have informed the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) that they do not object to the requested temporary reduction in clearance over the subject highway-rail crossings.

OCTA is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, as stated in Public Resources (PR) Code Section 21000 et seq. Under Section 21080.13 of the PR Code, any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation is categorically exempt from the filing requirements of CEQA. OCTA has determined that this project is exempt from CEQA consistent with Section 21080.13.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The Commission finds that the facts of this case appropriately warrant application of the CEQA exemption adopted by OCTA. Therefore, we similarly adopt the Section 21080.13 exemption for purposes of our approval.

RCES inspected the sites of both crossings, which are the subjects of this application. RCES examined the need for and the safety of the proposed grade-separated bridge structure widening and related railroad construction and recommends that the application be approved.

The application is in compliance with the Commission's filing requirements, including Rule 39 of Rules of Practice and Procedure, which relates to the widening or relocation of existing crossings. A site vicinity map of the proposed project locations is shown in Appendix A attached to this order.

In Resolution ALJ 176-3094, dated September 5, 2002 and published in the Commission Daily Calendar on September 6, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed and no hearings were held, this preliminary determination remains accurate. Given these developments a public hearing is not necessary, and it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3094.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on August 23, 2002. There are no unresolved matters or protests; a public hearing is not necessary.

2. OCTA requests authority to widen SR-22 over two existing grade-separated crossings: 1) South Orange Overhead over OCTA's Orange Subdivision tracks in City of Orange, CPUC Crossing No. 101OR-173.40-A; and 2) Hoover Street Overhead over UPRR's Stanton Branch tracks in City of Westminster, CPUC Crossing No. BAA-516.74-A, both in Orange County.

3. OCTA also requests a temporary reduction of clearance requirements during construction from the 22-feet 6-inches required by GO 26-D to 21-feet 0-inches.

4. UPRR, BNSF, and SCRRA have informed RCES that they do not object to the requested temporary reduction in clearance over the subject highway-rail crossings.

5. The widening of SR-22, which is required for increasing the number of its traffic lanes, will serve the public by improving freeway traffic circulation in Orange County.

6. Public convenience, safety and necessity require the widening of SR-22 over the two grade-separated railroad tracks.

7. OCTA is the lead agency for this project under CEQA, as amended.

8. OCTA has determined that this project is statutorily exempt from CEQA under PR Code Section 21080.13.

9. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's exemption determination.

Conclusions of Law

1. The Commission finds Public Resources Code Section 21080.13 applies to warrant a statutory exemption from CEQA for this project.

2. There are no unresolved matters or protests; a public hearing is not necessary.

3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The Orange County Transportation Authority (OCTA) is authorized to widen State Route 22 , also known as the Garden Grove Freeway, over the grade-separated tracks of 1) Union Pacific Railroad Company's Stanton Branch line, commonly known as Hoover Street Overhead, CPUC Crossing No. BAA-516.74-A, in City of Westminster; and 2) OCTA's Orange Subdivision line, commonly known as South Orange Overhead, CPUC Crossing No. 101OR-173.40-A, in City of Orange, as more fully described in the application, both in Orange County.
2. Clearances shall be in accordance with GO 26-D, except during the construction period when vertical clearance shall be no less than 21-feet 0-inches.
3. Walkways shall conform to GO 118.
4. Construction and maintenance costs shall be borne in accordance with an agreement, which has been entered into between the parties. OCTA shall provide a copy of the agreement to the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section staff (RCES) prior to starting construction.
5. Within 30 days after completion of the work under this order, OCTA shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work was completed.
6. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require
7. The application is granted as set forth above.

8. Application 02-08-023 is closed.

This order becomes effective 30 days from today.

Dated January 30, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX A
VICINITY MAP